

Legislative Rule-Making Review Committee

Tuesday, October 20, 2015

Senate Judiciary Committee Room

9:00 a.m. to 11:00 a.m.

Senate

Maynard, Chair Present

Boley Present

Karnes Present

Miller Present

Snyder Present

Sypolt

House

Sobonya, Chair Present

Frich, Vice-Chair Present

Hanshaw Present

Moffatt Present

Rowe Present

Fleischauer Present

The Legislative Rule-Making Review Committee met in the Senate Judiciary Committee Room at 11:00 a.m. on Tuesday, October 20, 2015. The meeting was called to order by the Chair, Delegate Kelli Sobonya. A silent roll call was taken by the Clerk as reflected above. Staff present included Debra Graham, Chief Counsel; Jeff Johnson, Senate Counsel; James Bailey, Senate Counsel; Kevin Baker, Senate Counsel; Marty Wright, House Counsel; Charlie Roskovensky, House Counsel; Tracy Webb, House Counsel; Seth Gaskins, Senate Counsel; Jared Wyrick, Senate Clerk; Beth Lovell, Senate Clerk; James Fuerhoff, House Clerk; Kim Jeffrey, House Clerk; and Mark White, House Clerk. [Clerk's note: The September 13th and 15th minutes were adopted during the Sunday, October 18th meeting as reflected in the October 18th meeting minutes.]

Jeff Johnson, Senate Counsel, explained his abstract on the rule proposed by the **Department of Health and Human Resources, Division of Early Care and Education, Family Child Care Home Registration Requirements, 78CSR19** . [Clerk's note: this rule was laid over from the previous meeting].

Lisa Ertl, Division of Early Care and Education, responded to questions from Committee Members.

Senator Snyder moved to treat the modification as an amendment and vote on the amendment as an amendment while rejecting the modification as a modification. The motion was adopted. Pursuant to the motion by Senator Snyder, the rule was adopted, as amended.

Jeff Johnson, Senate Counsel, explained his abstract on the rule proposed by the **Department of Health and Human Resources, Division of Early Care and Education, Family Child Care Facility Licensing Requirements, 78CSR18 JJ**. [Clerk's note: this rule was laid over from the previous meeting].

Senator Maynard moved to approve the rule. The motion was adopted.

Debra Graham, Chief Counsel, explained her abstract on the rule proposed by the **Consolidated Public Retirement Board, Benefit Determination and Appeal, 162CSR2**. [Clerk's note: this rule was laid over from the previous meeting.] Ms. Graham stated that the Board agreed with technical modifications.

Senator Maynard moved to approve the rule as modified. The motion was adopted.

Debra Graham, Chief Counsel, explained her abstract on the rule proposed by the **Consolidated Public Retirement Board, Deputy Sheriff Retirement System, 162CSR10**. [Clerk's note: this rule was laid over from the previous meeting]. Ms. Graham stated that the Board agreed to technical modifications.

Senator Maynard moved to approve the rule as modified. The motion was adopted.

Debra Graham, Chief Counsel, explained her abstract on the rule proposed by the **Consolidated Public Retirement Board, WV State Police, 162CSR9**. [Clerk's note: this rule was laid over from the previous meeting]. Ms. Graham stated that the Board agreed to technical modifications.

Senator Maynard moved to approve the rule as modified. The motion was adopted.

Tracy Webb, House Counsel, explained her abstract on the rule proposed by the **Medical Imaging & Radiation Therapy Technology Board of Examiners, Rules of the Board, 18CSR1**, and responded to questions from the committee.

Senator Maynard moved to approve the rule. The motion was adopted.

Seth Gaskins, House Counsel, explained the provisions of his abstract on the rule proposed by the **Office of Miners' Health and Safety, Substance Abuse Screening Standards and Procedures, 56CSR19**, and responded to questions from the committee.

Senator Maynard moved to approve the rule. The motion was adopted.

Seth Gaskins, House Counsel, explained the provisions of his abstract on the rule proposed by the **Division of Natural Resources, Wildlife Resources Section, Elk Restoration and Management Rule, 58CSR74**, and responded to questions from the committee.

Gary Foster, WV DNR, Director of the Elk Management Plan, answered questions from the committee.

Senator Maynard moved to add some suggested technical modifications to the proposed rule. The motion was adopted by the committee and the Division agreed to the modifications.

Senator Maynard moved to approve the rule as modified. The motion was adopted.

James Bailey, Senate Counsel, explained his abstract on the rule proposed by the **Board of Accountancy, Board Rules and Rules of Professional Conduct, 1CSR1**. Mr. Bailey stated that the Board agreed to the modifications.

Senator Maynard moved to approve the rule as modified. The motion was adopted.

Charlie Roskovensky, House Counsel, explained his abstract on the rule proposed by the **Nursing Home Licensing Board, Nursing Home Administrators, 21CSR1**, and responded to questions from the committee. Mr. Roskovensky stated that the Board agreed to modifications.

Tammy Jo Painter, Nursing Home Licensing Board, answered questions from the committee.

Senator Maynard moved to approve the rule as modified. The motion was adopted.

James Bailey, Senate Counsel, explained his abstract on the rule proposed by the **Board of Examiners in Counseling Licensing, 27CSR1**, and responded to questions from the committee. Mr. Bailey stated that the Board has agreed to modifications.

Senator Maynard moved to approve the rule as modified. The motion was adopted.

James Bailey, Senate Counsel, explained his abstract on the rule proposed by the **Board of Examiners in Counseling, Marriage and Family Therapists Licensing, 27CSR8**. Mr. Bailey stated that the Board agreed to modifications.

Senator Maynard moved to approve the rule as modified. The motion was adopted.

Kevin Baker, Senate Counsel, explained his abstract on the rule proposed by the **Alcohol Beverage Control Administration, Distilleries and Mini Distilleries, 175CSR10**, and responded to questions from the committee. Mr. Baker stated that the ABCA agreed to modifications.

Anoop Bhasin, ABCA General Counsel, answered questions from the committee.

Senator Maynard moved to approve the rule as modified. The motion was adopted.

Kevin Baker, Senate Counsel, explained his abstract on the rule proposed by the **Alcohol Beverage Control Administration, Nonintoxicating Beer Licensing, 176CSR1**. Mr. Baker stated that the ABCA agreed to modifications.

Senator Maynard moved to approve the rule as modified. The motion was adopted.

Kevin Baker, Senate Counsel, explained his abstract on the rule proposed by the **Alcohol Beverage Control Administration, Private Club Licensing, 175CSR2**.

Senator Maynard moved to approve the rule. The motion was adopted.

Kevin Baker, Senate Counsel, explained his abstract on the rule proposed by the **Office of Administrative Hearings, Appeal Procedures, 105CSR1**, and responded to questions from the committee. Mr. Baker stated that the Office agreed to modifications.

John Hackney, Director of the Office of Administrative Hearings, and Stacey Fragile, Deputy Director of the Office of Administrative Hearings, answered questions from the committee.

Senator Maynard moved to approve the rule as modified. The motion was adopted.

Charlie Roskovensky, House Counsel, explained his abstract on the rule proposed by the **Board of Medicine, Establishment and Regulation of Limited License to Practice Medicine and Surgery at Certain State Veterans Nursing Home Facilities, 11CSR11**. Mr. Roskovensky stated that the Board agreed to modifications.

Senator Maynard moved to approve the rule as modified. The motion was adopted.

Delegate Fleischauer moved to lay over the following rules until the next meeting of the Legislative Rule-Making Review Committee: **Division of Labor, Elevation Safety Act, 42CSR21; and Division of Labor, Licensing of Elevator Mechanics and Technicians and Registration of Apprentices, 42CSR21A**. The motion was adopted.

Brian Casto, House Counsel, explained his abstract on the rule proposed by the **DEP – Air Quality Standards of Performance for New Stationary Sources, 45CSR16**, and responded to questions from the committee.

Senator Maynard moved to approve the rule. The motion was adopted.

Brian Casto, House Counsel, explained his abstract on the rule proposed by the **DEP – Air Quality, Control of Air Pollution from Combustion of Solid Waste, 45CSR18**.

Senator Maynard moved to approve the rule. The motion was adopted.

Brian Casto, House Counsel, explained his abstract on the rule proposed by the **DEP – Air Quality, Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities, 45CSR25**.

Senator Maynard moved to approve the rule. The motion was adopted.

Brian Casto, House Counsel, explained his abstract on the rule proposed by the **DEP – Air Quality, Emission Standards for Hazardous Air Pollutants, 45CSR34**.

Senator Maynard moved to approve the rule. The motion was adopted.

Brian Casto, House Counsel, explained his abstracts for the following proposed rules: **DEP – Air Quality, Control of Annual Nitrogen Oxide Emissions, 45CSR39**; **DEP – Air Quality, Control of Ozone Season Nitrogen Oxides Emissions, 45CSR40**; and **DEP – Air Quality, Control of Annual Sulfur Dioxide Emissions, 45CSR41**, and responded to questions from the committee.

Senator Karnes moved that the committee recommend the DEP to withdraw these three rules. Senator Karnes withdrew his motion.

Delegate Fleischauer moved to lay these three rules over until the next meeting of the Legislative Rule-Making Review Committee in November. The motion was adopted.

With no further business coming before the committee, Senator Maynard moved to adjourn. The motion was adopted.